



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
APPEAL TO BOARD OF PATENT APPEALS AND INTERFERENCES

Re Application of:

John D. Kavelage et al.

Examiner: David Fidei

Serial No.: 09/734,196

Group Art Unit: 3728

Filed: December 12, 2000

Title: SEALED BLISTER ASSEMBLY

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Reply  
Brief  
C. F. Smith  
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**REPLY BRIEF**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sirs:

Applicant submits this Reply Brief to the Examiner's Answer mailed March 21, 2003.

Applicant stands by the arguments set forth in its original brief. Those arguments do not need to be repeated here in order to be found persuasive over the contentions contained in the Examiner's Answer. Applicant, however, is compelled to discuss three specific issues that stand out as points that require comment or clarification.

First, it has already been well-briefed that an essential element of Applicant's invention is the "impermeable" nature of the seal of the blister

assembly. For that reason, the "impermeable" limitation was added to the independent claims 1 and 13 and, therefore, affects all of the claims of the present application. The Examiner's discussion in his answer mixes together the Allers and Edwards disclosures. Without this improper combination of teachings, there is no anticipation of the claimed invention with respect to the impermeable feature of the invention. The Allers patent mentions a seal against gases, vapors and liquids, but the actual "seal" shown in the drawings of Allers is loose and can not physically constitute an impermeable seal. Edwards, on the other hand, has drawings that suggest a possible "continuous contact" between various components, but there is no teaching of any impermeable seal in the detailed description of that patent. The only summary statement of a seal that is identified by the Examiner is set forth in the Summary of the Invention section of the Edwards patent. The bottom line is that the Allers patent identifies the desirability of a seal, but it does not teach it. Edwards, on the other hand, has drawings that could arguably support such a teaching, but it does not contain that teaching in the explicit language of the patent. The only way to reach the claimed invention is to exercise impermissible hindsight and impermissible combining of the Allers and Edwards references to justify the Examiner's anticipation rejection. For at least the foregoing reasons, and as further explained in detail in the Appellant's Brief, the anticipation rejections must be reversed.

The second point relates to the Examiner's improper explanation and

misunderstanding with respect to claim 10. The language in claim 10 that is important is the following: “wherein the undercut sidewalls are shorter than the ridge walls.” This physical structure is explicitly shown in Figure 5 of the application and as shown in the blown up version of Figure 5 on page 4 of Appellant’s Brief. As shown in Figure 5, the undercut sidewalls are shorter than the ridge walls, thereby resulting in the gap 36 between the respective shoulder or flange portions. If the ridge fits into the undercut (or corresponding male/female portions of the Allers and other references), and the flange portions appear to be in contact with each other (as they do in those references), then the ridge walls cannot be longer than the undercut sidewalls. Those ridge walls are either the same length or less than the length of those sidewalls. The ridge walls extend outwardly beyond the sidewalls only if the undercut sidewalls are shorter as claimed. Accordingly, the rejections with respect to claim 10 must be reversed. There is no anticipation. There is no teaching of or any other suggestion of shorter sidewalls (or longer ridge walls) in any of the references cited by the Examiner. Claim 10 should be allowed.

Third, the Examiner continues to articulate a very clear misunderstanding of the claim limitations contained in claims 16 and 17 where the “length and width dimensions of the ridge are larger than the corresponding dimensions of the undercut.” The apparent misunderstanding is with respect to the term “corresponding” in the claim. It is undisputed that at least the leading edge of the ridge has a width greater than the narrowest

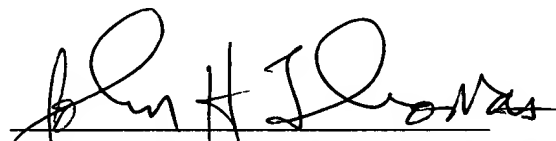
width of the undercut opening. This is the obvious snap of the present invention shown in all of the figures as well as shown in the references such as the Allers and Edwards references. But there is still a difference in the "corresponding" dimension of the ridge and sidewall in the Allers reference as evidenced by the blown up drawing from the Allers reference on page 8 of Appellant's Brief. As shown in that drawing, the corresponding width of the ridge walls is less than the corresponding width of the sidewalls, because there is a gap shown between them. The "corresponding" widths refer to the parallel or relative adjacent widths of ridge walls and sidewalls when mounted together. The Examiner's arguments are inconsistent with the explicit terms of the application description and drawings. The Examiner has to ignore the term "corresponding" and the teaching of the application drawings and description in order to form the basis of the rejection that has been articulated. Claims 16 and 17 are addressed to the unique structure where the length and width dimensions of the ridge are slightly larger than the corresponding dimensions of the undercut sidewalls. In this way, there is a constant outward pressure between the ridge walls and the sidewalls to form the impermeable seal of the claimed invention. This feature in claims 16 and 17 is nowhere suggested nor taught in the prior art references. The rejection of claims 16 and 17 should be reversed and those claims allowed.

Of course Applicant disagrees with much of the other argument of the Examiner. Nevertheless, the foregoing points are the most fundamental

misunderstandings that are evident in those arguments. Applicant had traveled to an interview with the Examiner in order to clarify these claim terms, but the Examiner's continued misunderstanding has led to the continued rejection. In order to prevent any lingering misunderstanding, Applicant is requesting concurrently herewith an Oral Hearing in order to explain the apparent misunderstandings of the Examiner that are the basis of the rejection.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 50-2127.

Respectfully submitted,

  
John H. Thomas, Reg. No. 33,460  
Attorney/Agent for Applicant(s)

John H. Thomas, P.C.  
1561 East Main Street  
Richmond, Virginia 23219  
Telephone: (804) 344-8130  
Facsimile: (804) 644-3643

Attorney Docket No.: MULTI 9

Date: April 22, 2003

#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the appropriate address at the U.S. Patent and Trademark Office required under 37 C.F.R. § 1.1(a) on April 22, 2003.

by: \_\_\_\_\_

  
John H. Thomas